

MINUTES OF THE MEETING OF THE
AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION
Legislative Building
401 South Carson Street, Room 4100
October 17, 2011

This is the first meeting of 2011.
This is the first meeting of the 2011-2012 Interim.

A meeting of the Audit Subcommittee of the Legislative Commission (NRS 218E.240) was called to order by Senator Sheila Leslie, Chair, at 9:33 a.m., Monday, October 17, 2011, in room 4100 of the Legislative Building, Carson City, Nevada, with a simultaneous video conference to room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.

AUDIT SUBCOMMITTEE MEMBERS PRESENT:

Carson City:

Senator Sheila Leslie, Chair
Assemblyman Tom Grady, Vice-Chair
Senator Dean Rhoads
Assemblywoman Maggie Carlton

Las Vegas:

Senator Ben Kieckhefer

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Paul Townsend, Legislative Auditor
Donna Wynott, Office Manager
Deborah Anderson, Audit Secretary
Jane Bailey, Audit Supervisor
Rocky Cooper, Audit Supervisor
Stephany Gibbs, Deputy Legislative Auditor
Tammy Goetze, Deputy Legislative Auditor
Mike Herenick, Deputy Legislative Auditor
Shawn Heusser, Deputy Legislative Auditor
Dennis Klenczar, Deputy Legislative Auditor
Sandra McGuirk, Deputy Legislative Auditor
Rick Neil, Audit Supervisor
Doug Peterson, Information Systems Audit Supervisor
Shannon Ryan, Audit Supervisor

The roll was taken. A quorum was present.

Chair Leslie began the meeting with agenda item number one.

Item 1— Public comment

Chair Leslie called for public comment. There was none.

Item 2— Approval of minutes of the meeting held on December 8, 2010

Chair Leslie called for a motion.

SENATOR RHOADS MOVED TO APPROVE THE AUDIT SUBCOMMITTEE MINUTES OF DECEMBER 8, 2010. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

Item 3— Selection of Vice-Chair of Audit Subcommittee of the Legislative Commission

ASSEMBLYWOMAN CARLTON NOMINATED ASSEMBLYMAN TOM GRADY AS VICE-CHAIR OF THE AUDIT SUBCOMMITTEE OF THE LEGISLATIVE COMMISSION. SENATOR BEN KIECKHEFER SECONDED THE NOMINATION. THE VOTE WAS UNANIMOUS.

Mr. Paul Townsend, Legislative Auditor, asked that Items 6A through 6K (six-month reports) be taken out of order.

Chair Leslie approved the request.

For purposes of continuity, the minutes appear in the order of the agenda.

Item 4— Presentation of audit reports (NRS 218G.240) – Paul Townsend, Legislative Auditor

A. Office of Veterans' Services

Mr. Townsend introduced Shawn Heusser, Deputy Legislative Auditor; and Rocky Cooper, Audit Supervisor, to present the report.

Mr. Heusser began the presentation with background information. He noted the Office was created in 1943 to serve as an advocate for Nevada's veterans. The Office operates a 180 bed skilled nursing care facility, two veterans' cemeteries, and assists veterans and their families in obtaining federal benefits, services, and compensation for which they are entitled.

Exhibit 1 shows expenditures for fiscal year 2010 were \$18 million for the Office, with \$15 million in expenditures at the Veterans' Home. The report provides an explanation of the major funding sources for the Veterans' Home. Exhibit 2 shows the amount of funding provided for each major funding source, which includes Medicaid, Medicare, Veterans' Affairs State Home Per Diem Program, and private pay residents. Further, auditors note that fiscal year 2010 Veterans' Home revenues exceeded expenditures by \$855,000, which were returned to the General Fund.

Mr. Heusser explained the audit scope included a review of the Veterans' Home revenues and resident trust fund activities for calendar year 2010, and activities through February 2011 for certain areas.

Mr. Heusser explained the audit objectives were to determine whether internal controls at the Veterans' Home ensure that Medicaid, Medicare, Veterans' Affairs, and private pay residents are billed timely and accurately; revenues are collected; and whether the Veterans' Home has adequate controls over the resident trust fund.

Mr. Heusser stated audit findings and recommendations revealed that the Veterans' Home does not have adequate controls to ensure revenues are billed timely or accurately or that outstanding balances are collected. Auditors identified more than \$600,000 that was not billed timely or accurately. Although the delay should not impact the amount of Medicaid and Medicare reimbursements eventually received, it is likely some losses will occur from private pay residents that were not billed for several months. Mr. Heusser noted that during the audit new fiscal staff were taking steps to develop policies and procedures to improve the accuracy and monitoring of accounts receivable.

Mr. Heusser stated the report included specific examples of untimely or inaccurate billings for each of the Veterans' Home major revenue sources. For example, one resident was not billed for 10 months of care. After 10 months, the resident was billed for \$53,000. The resident passed away with an outstanding balance of over \$50,000.

Mr. Heusser noted that Veterans' Home collection efforts need improvement. Auditors found accounts receivable reports were not accurate and information was not submitted to the State Controller as required. Further, the Veterans' Home did not actively pursue the collection of delinquent debts from private pay residents. For example, collection letters had not been sent to 11 of the 14 residents included in audit testing that owed between \$10,000 and \$50,000. Collection efforts should be sensitive to the needs of veterans and their families, but ensure individuals with resources pay their appropriate costs.

Mr. Heusser reported that three deposits totaling over \$1 million were deposited to the incorrect budget category. While Veterans' Home staff corrected two of these deposits, the remaining uncorrected deposit resulted in Medicare revenues being overstated by 67% in the Governor's Executive Budget.

Mr. Heusser stated that most of the billing and collection problems identified in the report stem from a lack of policies and procedures to guide accounting activities. Mr. Heusser noted these problems were compounded by turnover in several key Veterans' Home accounting positions during calendar year 2010.

Six recommendations were made to improve the Veterans' Home oversight of revenues.

The Veterans' Home lacks adequate controls to ensure resident trust funds are properly safeguarded. The resident trust fund serves as a bank for any resident wishing to participate. Deposits are held in an account at a local credit union, and the Veterans'

Home is responsible for monitoring the activities of the account. For calendar year 2010, the fund included accounts for over 160 residents and had an average monthly balance of \$181,000.

Mr. Heusser stated monthly bank reconciliations were not completed for the resident trust fund during fiscal year 2010. Further, when reconciliations were completed during fiscal year 2011 they included an unexplained overage of \$2,400 in the account.

The Veterans' Home lacks adequate segregation of duties for resident trust fund activities. Specifically, auditors found one employee participated in depositing money, writing checks, and entering and approving transactions. In addition, this employee was also responsible for completing monthly bank reconciliations.

Two recommendations were made to strengthen the controls over the resident trust fund by developing policies and procedures for reconciliations and to ensure duties are properly segregated.

Mr. Heusser stated that the Office accepted the eight audit recommendations. He noted the Office had been responsive to the audit and had provided documentation that they are taking steps to implement the recommendations.

Mr. Heusser offered to answer questions from the Committee.

Chair Leslie called for questions from the Committee.

Assemblyman Grady stated during the last couple of meetings he noted a definite lack of control within the agencies. He asked for comment from Audit staff.

Mr. Townsend replied auditors had noted some very serious control weaknesses in the Office. He stated the Office had been responsive in accepting the recommendations and had provided auditors with some initial materials indicating they were implementing the recommendations. Mr. Townsend explained auditors would be going through the normal audit follow up process in looking for a plan of corrective action within 60 days and then the six-month report. He assured the Committee that auditors would review action by the Office to ensure that corrective steps were taking place.

Chair Leslie stated the audit lays out some very specific areas that need improvement. She noted that a number of audits to be presented at the meeting today reported that agencies were not aware of or had not turned over their collections to the Controller per NRS. She asked what needs to be done to inform the agencies. She asked for comments on the issue.

Mr. Townsend replied perhaps agencies are confused about what an accounts receivable is and at what point they are supposed to turn debt over to the Office of the Controller for collection. He stated the Controller's Office had been developing a process to communicate this information to the agencies. Auditors are addressing the issue in the audits. Mr. Townsend stated agencies do not want to carry old accounts receivable when the Controller has set up a process to collect the bad debts. He offered that auditors would continue to address the issue.

Chair Leslie suggested that the Department of Administration could send out a memo to all ASOs. She was surprised that the law passed in 2009 and the Committee was still seeing quite a few audits noting this problem.

Assemblywoman Carlton commented on options the agency could take to deal with the issue.

Chair Leslie stated in this particular audit there was no record of receivable reports at all. She wondered what the real problem was.

Assemblywoman Carlton asked about the turnover of staff. She wanted to compare staffing from the present to 2007. She stated to evaluate how an agency is doing the Committee needed to look at how many people are there to do the job and how much are they being asked to do. She offered if the legislature was not providing the appropriate staff then part of the responsibility for this issue would lie with the legislature also.

Chair Leslie stated agencies can be asked about staffing as they testify in response to the audit. She stated in this particular case auditors found that most of the billing and collection problems came from a lack of policies and procedures.

Senator Kieckhefer asked for clarification in regard to fiscal numbers and if they related specifically to the 40 patients reviewed in the audit.

Mr. Heusser replied the \$600,000 represents the amount that was not billed timely or not billed accurately. He stated this a separate number from the 40 residents that auditors were specifically talking about. The \$600,000 is based on reviewing reports and also reviewing Medicaid to see what was outstanding that should have been billed. It is a separate number from the 40 residents.

Senator Kieckhefer clarified that the 40 residents reviewed pertained to issues over policy and procedure and not over the fiscal numbers in the audit.

Mr. Heusser replied that was correct.

Chair Leslie called for agency staff to testify.

Mr. Caleb Cage, Director, Nevada Office of Veterans' Services, was joined by Frank Bellinger, Joe Palmer, and Nancy Jensen. He stated the Office agreed with and accepted the audit recommendations and had started implementing policy and procedure corrections.

Chair Leslie appreciated the Office taking the audit recommendations seriously. She asked if the policies and procedures for each of the seven revenue sources had been submitted to their facilities' policy and procedures committee for approval at the September 2011 meeting.

Mr. Cage replied they have been implemented.

Chair Leslie asked that audit staff be provided with the policies and procedures for review.

Assemblywoman Carlton asked for comments about staffing levels from 2007 and 2009 to the present.

Mr. Cage replied that Office staffing cuts had not been taken from the administrative service officers or the technicians that support them in the business office at the Home or throughout the agency. He noted the report refers to high turnover which is continuing but they have had a team in place for approximately one year that were addressing the issues.

Assemblywoman Carlton asked where staffing cuts had taken place.

Mr. Cage replied an administrative assistant position and a veterans service officer position were cut from the Las Vegas office. Both were vacant positions. A third position, a veterans service officer, was cut but was reinstated to the Elko office.

Assemblywoman Carlton asked to be assured that the level of care at the Veterans' Home and staffing as far as patient care is being protected as much possible.

Mr. Cage replied that is the priority of the Office and of the administrator of the Home. He stated they had improved with the reduced level of furloughs. They had improved the amount of one-on-one care per patient in the Home. He added, the Home remains a first class facility and one of the best in the State.

Assemblyman Grady asked for comments on the Elko staff position. He asked how the eastern part of the state would be covered.

Mr. Cage clarified that the position had been reinstated. It was cut during the budget cycle but was reinstated by a court order through a reversal of a Department of Personnel action.

Chair Leslie asked for clarification of the court order.

Mr. Cage replied the Office had an open position due to a termination in 2009. The Office removed that open position during the last budget cycle. In the meantime a hearing officer through the Department of Personnel reinstated and reversed the termination after 1.5 to 2 years. The Office went to IFC at the last meeting and the position was reinstated based on the hearing officer decision and subsequent court order.

Chair Leslie asked for comments from the agency in regard to turning collections over to the Controller's Office.

Mr. Cage deferred the question to Joe Palmer.

Mr. Joe Palmer, Administrative Services Officer II, Office of Veterans' Services, replied one problem involved their new medical billing software program. It was not providing accurate accounts receivable and aging reports. A decision was made to correct the problem prior to turning accounts over for collection. He stated that was only fair to the patients.

Chair Leslie commented that it was not that the Office was not aware of the collection process it was that the Office felt they did not have accurate information to proceed with the collection process.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE REPORT ON THE
OFFICE OF VETERANS' SERVICES. THE MOTION WAS SECONDED
BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

Chair Leslie recognized Mr. Paul Townsend, Legislative Auditor.

Mr. Townsend stated the Committee would begin seeing audits focusing on performance measures due to the passage of AB 248 during the 2011 Legislative Session, which is moving in a direction of performance based budgeting. He noted that performance measures are a key part of that budgeting process.

B. Department of Health and Human Services, Aging and Disability Services Division

Mr. Townsend introduced Stephany Gibbs, Deputy Legislative Auditor; and Jane Bailey, Audit Supervisor, to present the report.

Ms. Gibbs began the presentation with background information. She explained the Division is responsible for implementing and monitoring programs for the elderly, frail, and persons with disabilities. The report describes the agency's staffing and office locations.

Exhibit 1 shows that in fiscal year 2010 the Division received \$17.6 million in general fund appropriations and nearly \$18.2 million in federal grants. Exhibit 2 shows that program costs were about \$42.3 million and personnel costs were over \$13.1 million.

Ms. Gibbs noted the Division's responsibilities have expanded considerably since 1999 by adding 10 significant programs or areas of responsibilities plus adding 5 oversight committees or commissions. The Division reported on 44 performance measures in its 2011 – 2013 Executive Budget.

The purpose of this audit was to evaluate the Division's performance measures reported for fiscal year 2010. The findings and recommendations section focused on five performance measures. Two were significantly misleading and inaccurate. As a result, the reported savings were overstated by \$5.0 million and \$1.7 million. The other three measures had minor errors.

Ms. Gibbs explained the two performance measures did not accurately describe the information presented. One was net cost savings to the State for home vs. institutional care in the Personal Assistance Services program and one was the cost savings to the State for individuals diverted from institutional care in the Traumatic Brain Injuries program.

Ms. Gibbs noted that the formulas used to calculate these amounts did not deduct program costs and did not adjust for potential federal reimbursement. Auditors clarified

that any potential savings is an estimate and does not measure benefits that are not quantifiable in dollars.

Two recommendations were made for calculating performance measures to clearly define terms and assumptions as well as to review the formulas used.

Ms. Gibbs stated the report addressed other calculation weaknesses that, while not significant to the individual performance measure, collectively indicate systemic problems. Ms. Gibbs stated audit staff demonstrated the recalculation, adjustments, and assumptions that should be applied to the performance measures. Exhibit 3 shows the adjusted Traumatic Brain Injury program measure of \$123,000 savings as compared to the Division's reported savings of \$1.8 million. Further, Exhibit 4 shows the adjusted Personal Assistance Services program measure of \$3.8 million savings as compared to the Division's reported savings of \$8.8 million.

Ms. Gibbs reported the next section of the report included mathematical errors in caseload reports prepared by providers, which distort internal management reports and public information on the agency's web site. For example, the provider's calculation for the average days of service did not include the number of days for 4 of 10 clients for 2 separate months.

One recommendation was made to strengthen controls by using existing knowledge, skills, and abilities.

The Division accepted the three recommendations in the report.

Ms. Gibbs offered to answer questions from the Committee.

Chair Leslie commended the audit focus on performance measures

Chair Leslie referred to page 6 in the report, agreeing that the potential savings was an estimate and did not address other program benefits that were not quantifiable in dollars. The report pointed out that benefits could include an improved quality of life. She added that cost savings were important, however, as pointed out in the audit, other factors were equally or more important. She asked how the agency would gather data that was not subjective to be able to prove that it was increasing the quality of life. She asked if data existed that the agency would be able to use if there was a performance measure in that area.

Ms. Gibbs replied in discussion with agency staff the performance measures have shown an increase in outreach services that would then pose an opposite decrease in reports of elder abuse. She suggested the agency could better represent the information for the Committee.

Senator Kieckhefer referred to page 8 of the report commenting on the mathematical error, noting that some measures relied on external data for their calculations. He asked if it was common with these types of programs to rely on information submitted by contractors to use for these calculations.

Ms. Gibbs replied the practice was used in these programs but was not common throughout the agency.

Assemblyman Grady asked for clarification of information in Exhibits 3 and 4 of the report.

Ms. Gibbs replied the agency did not keep up with the changes in Medicaid rates as they increased over the years. They were using old data.

Chair Leslie asked for additional information on the solution suggested in Recommendation 3. She asked what auditors meant by strengthening controls stated in the recommendation.

Ms. Gibbs replied the recommendation suggested that the agency could form oversight groups to review the formulas and data used to calculate the measures.

Chair Leslie called for agency staff to testify.

Ms. Carol Sala, Administrator, Aging and Disability Services Division, accepted the audit recommendations. She stated the Division had discussed internally just how to capture and quantify the quality of life issues. She commented on the issue.

Ms. Carol Sala, Administrator, Aging and Disability Services Division, stated we spent a lot of time with the auditors going over the recommendations and the areas of deficiency that they found and we agree that we do have some system changes that need to be made, especially in the two programs, the TBI, the PAS program. Those came over to us in the 2009 Legislative Session and internally now, just by the way of them coming over to us we have been able to start implementing some of the procedures and the way we track things that we had already done in our other programs such as the CHIP programs, the waiver programs, and the homemaker programs. We do struggle with how you capture quality of life data, and that is something internally that we have been discussing for a long time, especially with the performance based budgeting coming into play. How do you measure how you are making a difference. Certainly some of the national things that they are looking at is decreased hospitalizations. We do, within our community based care, as for our waivers and our homemaker program, do surveys with families. We have a quality management unit that looks at complaints against providers, how providers are following the regulations, such as licensure requirements. We are really trying to look at how we can quantify those quality of life issues because those are critical factors within the Human Services and we certainly don't want to be looked at not performing because we do not have all of the standard number of widgets that we produced in "X" number of dollars, which certainly is a component, but in this case we look forward to making these programs more accountable.

Chair Leslie commented the Committee was not looking at accountability so much as results for the performance measures. She stated being accountable for the money is important but it is also important to be accountable for whether the programs are making a difference in the lives of the people being served.

Chair Leslie looked forward to hearing how the Division would be quantifying the results.

Chair Leslie called for questions from the Committee.

Chair Leslie called for a motion.

SENATOR RHOADS MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AGING AND DISABILITY SERVICES DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

C. Department of Health and Human Services, Oversight of Child Care Facilities

Mr. Townsend stated during the scope of the audit the responsibility for this agency was with the Division of Child and Family Services. However, due to legislation during the 2011 Legislative Session, as of July 1, 2011, the responsibility for this agency was transferred to the Health Division. He explained audit staff had worked with the administrators of both divisions and it was determined that the Health Division was in the best position to implement the recommendations. He added the Health Division had prepared the response to the report.

Mr. Townsend introduced Dennis Klenczar, Deputy Legislative Auditor; and Rick Neil, Audit Supervisor, to present the report.

Mr. Klenczar began the presentation with background information on the Bureau of Services for Child Care. The Bureau has the responsibility to license, inspect, and investigate complaints on child care facilities. The purpose of the Bureau is to ensure the health, safety, and well-being of children in child care facilities. Exhibit 1 lists the types and number of licensed facilities.

Mr. Klenczar explained the Bureau is primarily funded by a federal grant, which in fiscal year 2011 was approximately \$1 million. Per Bureau records, there were 558 licensed facilities at June 30, 2011. Exhibit 2 shows the number of facilities for each of the three regional offices. The report includes an explanation of recent additions to the Bureau's caseload. In May 2009, the City of Las Vegas relinquished its child care responsibilities to the State, which added 197 facilities to the Bureau's caseload. In addition, in September 2010, Clark County relinquished its child care responsibilities, which added 174 facilities to the Bureau's caseload. The audit objective was to determine if the Bureau ensures child care facilities meet health and safety requirements. The audit scope was July 2009 through March 2011.

The Bureau did not always perform timely inspections of child care facilities. Although a majority of inspections were timely, it is important for the Bureau to ensure inspection requirements are always met. State regulations require the Bureau to perform inspections once every 6 months. The audit found 7 of 50 facilities had untimely inspections, ranging from 2 to 8 months late, with an average of 3.5 months late. The report provides examples of some critical items verified during an inspection. These items show why timely inspections are important. Furthermore, the Bureau did not

always follow up when facilities were not in compliance with health and safety requirements.

Mr. Klenczar reported on inspections performed by outside entities. Most child care facilities tested had timely fire and health inspections conducted by state and local fire and health authorities. However, a few had not been inspected timely. In these instances, the Bureau did not timely request that these facilities be inspected, which is the Bureau's standard practice. Three of 50 facilities did not have timely fire inspections and 4 of 50 facilities did not have timely health inspections.

Four recommendations were made to improve the timeliness of inspections and to ensure follow up so that problems noted during inspections are corrected timely.

Mr. Klenczar stated better monitoring of facility employees is needed to ensure key health and safety requirements are met. Specifically, the Bureau did not always perform required checks on facility employees to ensure they did not have a history of child abuse or neglect. In addition, the inspections did not always detect employees that had not been tested for tuberculosis timely or had expired tests. Although these problems were not pervasive, it is critical that these requirements are always met because they protect the health and safety of children at child care facilities.

Auditors tested inspections for 50 facilities and found 3 inspections did not have evidence the Bureau performed a child abuse and neglect check for any of the 18 employees at these facilities. In addition, checks were not timely for 19 of 20 employees. These checks are vital since they verify employees do not have a substantiated report of child abuse or neglect against them.

Mr. Klenczar stated improvements are needed in monitoring facility employees for timely TB tests. The current inspection process does not include methods to identify new employees and verify they had TB tests prior to the start of employment. Auditors tested inspections for 50 facilities and found some new employees did not have timely tests and some existing employees had expired TB tests. Auditors identified 29 facilities with new employees. For 10 of these facilities, 22 new employees had untimely TB tests. These untimely tests were completed on average 40 days after the employee was hired. Mr. Klenczar explained the current inspection process does not require the inspector to verify the TB test was completed prior to the start of employment. Three facilities had instances where existing employees or volunteers did not have a TB test or it was expired.

Two recommendations were made to improve the monitoring of employees at child care facilities to ensure they meet key health and safety requirements.

Mr. Klenczar reported the Health Division accepted all six recommendations.

Mr. Klenczar concluded the presentation. He offered to answer questions from the Committee.

Chair Leslie stated the audit report was very important. She pointed out that the fire and health inspection failures were not just a failure of state inspectors. Chair Leslie

stated the audit raised questions of why these inspections are not being handled properly. She suggested that a copy of the audit be forwarded to the fire department.

Mr. Townsend agreed to provide a copy of the report to the appropriate entities.

Chair Leslie asked for comments about the monitoring of the employees doing the child and abuse check. She asked if the issue was that three days was not enough time or was the issue more that they forgot. She asked for comments on the underlying problem.

Mr. Klenczar replied in most cases it is a matter of the facility not informing the Bureau timely.

Senator Kieckhefer asked for comments on the staffing ratios in terms of the number of inspectors versus the number of facilities they need to inspect since the Health Division took over inspections of child care facilities along with shifts from Clark County to the State for inspections. He asked if that had changed in the last year.

Mr. Klenczar replied the number of surveyors or inspectors had not changed. The transfer from DCFS to the Health Division did not impact the number of staff performing the inspections.

Senator Kieckhefer asked for comments about staffing in regard to the shift from Clark County.

Mr. Klenczar replied at those two points in time staff was added to the Bureau to handle the increase. He thought the number was eight surveyors.

Senator Kieckhefer asked if that was an equal number of surveyors that were employed by Clark County and the City of Las Vegas.

Mr. Klenczar deferred the question to the agency.

Chair Leslie called for agency staff to testify.

Ms. Marla McDade-Williams, Deputy Administrator, Health Division, expressed appreciation for the audit being done during the transfer of child care to the Health Division which occurred as of July 1, 2011. She stated the audit will assist the Division, and she stated the agency accepted the recommendations. She reported that the one recommendation that the Division needs to find a solution for is the delay between facilities informing the bureau when employees are hired. Ms. Williams explained, the child care system is different than the one they have for health facilities. She explained that with health facilities the licensees have the burden to ensure that the employee gets their check done, and there is a timeframe worked out there. Here the burden is on the child care licensing agency to do the checks and the Division is dependent on the facilities notifying the Division. It is something the Division will review. She stated the Division would request legislation if the issue cannot be resolved through regulation to apply the burden appropriately.

Chair Leslie stated she was very interested in the review and what the Division decides in regard to the issue. Chair Leslie looked forward to the six-month report. She asked for comments on staffing levels as asked by Senator Kieckhefer.

Ms. McDade-Williams deferred the question to Ms. Comeaux.

Ms. Diane Comeaux, Administrator, Division of Child and Family Services, replied staffing is adequate. She explained that inspectors from Clark County and the City of Las Vegas had different duties, making it difficult to provide a number for inspectors needed by the Division in child care licensing.

Senator Kieckhefer stated on a related issue that 7 of 50 facilities had untimely inspections. He asked if they were for annual or initial inspections that should have occurred prior to licensing.

Mr. Klenczar replied they were annual inspections.

Senator Kieckhefer asked for clarification that all appropriate inspections were completed for initial licensing.

Mr. Klenczar replied that was correct.

Assemblywoman Carlton stated for a number of years that they were switching away from the TB testing for a lot of service people in the state and going to the hepatitis vaccinations. She was aware they were going back to some of the TB testing. She asked with child care was there a time when they converted between both, and whether there was a lag time in the TB testing. She asked for comments on the issue.

Ms. McDade-Williams replied the TB requirements for child care facilities as well as health facilities have been consistent over time that the staff should be tested. She gave examples of why the testing was not done or was delayed, such as the employers sometimes lose the paperwork identifying the employee was tested. Sometimes there is confusion about who needs to be tested because of a prior TB finding, so those are more of the issues with TB than it is a policy decision of not testing them.

Assemblywoman Carlton stated it was just a paper chase. The employee knows they need to have the test done as it expires at a certain time.

Ms. McDade-Williams replied the employee is aware that the test needs to be done. Also, the employer has the obligation of knowing when people are due for testing.

Assemblywoman Carlton stressed that the testing is very important to be completed in a timely manner.

Ms. McDade-Williams replied the agency would look into the issue more closely.

Chair Leslie called for questions from the Committee.

Chair Leslie called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, OVERSIGHT OF CHILD CARE FACILITIES. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

D. Department of Health and Human Services, Division of Child and Family Services

Mr. Townsend introduced Dennis Klenczar, Deputy Legislative Auditor; and Rick Neil, Audit Supervisor, to present the report.

Mr. Klenczar began the presentation with background information on the Division. Their mission is to provide support and services to assist Nevada's children and families in reaching their full human potential. The Division is primarily responsible for three major program areas: Child Protective and Welfare Services in rural Nevada and oversight of urban county-operated services; Children's Mental Health Services in urban Nevada; and Statewide Juvenile Justice Services.

Mr. Klenczar stated in fiscal year 2011, the Division had expenditures of about \$209 million. The Division is funded primarily by state appropriations and federal funds. General fund appropriations were about \$131.5 million in fiscal year 2011. Exhibit 1 shows expenditures for each of the major program areas in fiscal year 2011. Mr. Klenczar explained the primary services provided by the child welfare agencies. Exhibit 2 provides a breakdown of expenditures for this program area. The audit report provides program and financial information for the other program areas including Juvenile Justice Services, Children's Mental Health Services, Administrative, and Other Services.

Mr. Klenczar explained the audit objectives were to determine if the Division has performance measures that are reliable and useful in assessing program outcomes, and to determine if the Division effectively monitors service contracts. The audit scope was July 2009 through March 2011.

Mr. Klenczar stated the reported results for 8 of 20 performance measures tested were not reliable. The reported results were unreliable because they were not supported by competent underlying records or they used an inappropriate methodology. The report explains the three main users of performance measures are agency managers, oversight bodies, and stakeholders and the general public.

Mr. Klenczar stated auditors found 4 of 20 measures tested did not have competent underlying records. For example, supporting documents showed 3,058 former foster youth received independent living services during fiscal year 2010, which is significantly more than the 768 reported in the Executive Budget.

Mr. Klenczar stated performance measures cannot be reliable unless the reported results are calculated using a sound methodology. Four of the 20 measures tested had an unsound methodology. For example, in regard to the measure for the number served by the Community Corrections Partnership Block Grants, the total number

reported by the nine judicial districts needed to be reduced because there were duplicates in four of the districts. However, staff had no explanation for why the reduction was applied to all 9 districts or why it was 29%.

One recommendation was made to improve the reliability of performance measures.

Mr. Klenczar stated auditors found a majority of the Division's measures were indicators of the agency's efforts, called output measures, rather than measures that demonstrate the impact of its efforts, which are called outcome measures. The report explains the common types of performance measures. Exhibit 6 lists the six types, their definition, and an example of each type.

Mr. Klenczar stated auditors identified a total of 154 performance measures reported by the Division in the Executive Budget and other budget-related documents. Auditors analyzed these measures and found 73% were output measures and 16% were outcome measures. Exhibit 7 shows the percentages that were output and outcome measures for each major program area. Auditors surveyed seven states with programs similar to DCFS. All seven states indicated the use of outcome measures has resulted in positive feedback from legislators, governors, and the public. These states also indicated the outcome measures have assisted them in justifying their budget, and in identifying agency trends, progress, and problems.

One recommendation was made to improve the usefulness of performance measures in assessing program outcomes.

Mr. Klenczar reported, overall, the Division has an effective process for monitoring service contracts. However, the Division could improve its monitoring to verify insurance requirements are continuously met. For 6 of 27 contracts tested with insurance requirements, the Division did not obtain proof of insurance for all required policies throughout the life of the contract. The types of insurance that were not always verified included general liability, professional liability, workers' compensation, and auto. The length of time ranged from 3 months without general liability to almost 2 years without workers' compensation.

The final section of the report was on contractor invoices. For one of the contracts tested, the invoices were not adequate because they did not indicate how the amount billed was calculated and they did not include other details required by the contract. Thus, the Division had limited assurance amounts billed were valid, accurate, and in accordance with terms of the contract. This contractor was paid about \$569,000 during fiscal years 2010 and 2011 for this contract.

Two recommendations were made to improve controls over service contracts.

Mr. Klenczar stated the Division accepted all four recommendations.

Mr. Klenczar concluded the presentation. He offered to answer questions from the Committee.

Chair Leslie asked for comments on the discrepancy between the supporting documents finding that over 3,000 individuals were served and the agency only reported

768 in the Executive Budget. She asked if auditors were able to determine why this occurred.

Mr. Klenczar replied the main discrepancy was because the spreadsheet used to compile this data has a column for new youth served and a column that is for carry over which is from prior years. They did not include the carry over number.

Chair Leslie asked why there was such a big discrepancy with the foster care average.

Mr. Klenczar replied that would be an IT issue. He explained there were two reports generated, a summary report and the detail report. They did not reconcile the different numbers in each of the reports. And exactly why the two reports do not reconcile he did not know. He suggested it might be a programming issue.

Chair Leslie stated both issues sounded like they could be addressed easily.

Mr. Klenczar agreed they were fixable.

Chair Leslie asked for clarification that the Division relies on the Purchasing Division's contract entry and tracking system for monitoring insurance.

Mr. Klenczar replied it was a fairly new system referred to as CETS, which has multiple insurance screens to enter each policy type and the term of the policy. The system is capable of recognizing when policies are set to expire. However, the breakdown occurred because agency staff has to log into the system to access the information.

Chair Leslie asked if the system could be programmed to alert the agency.

Mr. Klenczar understood the user would be alerted only if they are logged into the system.

Chair Leslie stated the solution would be to have a procedure where somebody logs into the system.

Chair Leslie called for questions from the Committee.

Assemblywoman Carlton stated carrying insurance is required by law and there are penalties if they do not carry insurance. She asked what would prohibit the contractor from getting a password and updating their own information since they control their own insurances.

Mr. Klenczar replied the contractors do not have access to the system.

Chair Leslie asked what if somebody lets their insurance policy lapse. How would the agency be made aware of this.

Mr. Klenczar replied by monitoring information in CETS. If the agency was aware of the expiration date they would be able to contact the contractor and request current policy information. He added this was a monitoring issue.

Senator Kieckhefer commented about the performance measures. He was interested to see the State move forward on performance-based budgeting and the reliance on performance measures is going to be important. Senator Kieckhefer noted that 8 of 20

performance measures were not reliable. He stated there a total of 154 performance measures in the Division itself. He asked if it was reasonable to extrapolate that 40% of the 154 performance measures are not reliable.

Mr. Townsend replied audit staff would not make that projection. There is a wide variety of the types of performance measures. He added this is an agency with many diverse services and they are using many different data systems and collection methods so it is difficult to make a blanket projection like that. He stated auditors do go by what was found in the test sample of 20.

Senator Kieckhefer appreciated the explanation. He asked if the performance measures were reliable indicators to use for budgetary decisions.

Mr. Townsend replied reliability is easier to verify than whether it is the best possible measure. He explained when auditors place more emphasis on outcome measures as opposed to output measures it is because at times the output measures are just counting work activities, whereas outcome measures, measure a real difference being made. Auditors are trying to approach that in the audit reports. He stated a lot of times the best people to develop the measures are the program people that are actually working within the agency. Mr. Townsend noted that auditors surveyed other states with similar programs and identified some of the outcome measures they used. He added this was an area that the auditors would continue to work on with the agencies to implement AB 248.

Chair Leslie commented it is easier to measure output measures than outcome measures. She stated the agencies may find it a lot more meaningful to have outcome measures than to keep track of day-to-day outputs.

Chair Leslie called for agency staff to testify.

Ms. Diane Comeaux, Administrator, Division of Child and Family Services, complimented audit staff on the report. She stated the Division had received some very good information and as they move more toward performance-based budgeting and performance management this is a good place for them to start.

Senator Kieckhefer asked for comment on the 154 performance measures. He stated it seemed there was a lot of busy work for the Division to track.

Ms. Comeaux replied the Division has 19 budget accounts with reported measures on each one of them. The Division has typically focused on caseload because the Division is always asked how many kids were served. The Division tracks federal outcome measures for child welfare which are reported in their child and family services review quarterly. She explained the Division already tracks outcome information which was not being reported in the budget process. She stated of the 154 measures some were for caseload information. Ms. Comeaux stated the Division will include more meaningful outcome measures.

Chair Leslie noted the chart on page 12 outlined the percentage of output measures versus outcome measures in each of the major DCFS categories. She noted that legislators would ask how many kids were served.

Ms. Comeaux stated the Division has an annual report which, for budget purposes, could be referred to for the number of kids served.

Chair Leslie called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF CHILD AND FAMILY SERVICES. THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

E. Department of Conservation and Natural Resources, Division of Environmental Protection

Mr. Townsend introduced Tammy Goetze, Deputy Legislative Auditor; and Shannon Ryan, Audit Supervisor, to present the report.

Ms. Goetze began the presentation with background information. The Division of Environmental Protection's mission is to preserve and enhance the environment of the state to protect public health, sustain healthy ecosystems, and contribute to a vibrant economy. The Division is organized into ten bureaus as shown in Exhibit 1. Federal grants, fees, assessments, and reimbursements primarily fund the Division. Exhibit 3 shows the Division's revenue sources.

Ms. Goetze explained the audit focused on the Division's activities during fiscal year 2011. The objectives were to determine if the administration of accounts receivable, performance measures, permit issuance, and the collection of fees were proper.

Ms. Goetze stated receivable administration can be more efficient. Debt should be submitted to the State Controller. Most of the Division's bureaus did not actively submit debt over 60 days delinquent to the State Controller during fiscal year 2010 or 2011. Assembly Bill 87, passed during the 2009 Legislative Session, centralized the State's collection efforts to the Office of the State Controller after debts reach 60 days past due. Even though the requirement is relatively recent, the Division forwarded only about \$84,000 of its roughly \$2 million in debt.

Exhibit 4 shows outstanding debt per bureau dating back to fiscal year 2007 and prior. Exhibit 5 shows the amount of debt submitted to the State Controller since the 60-day debt requirement became effective. Debt had not been properly submitted to the State Controller for collection because the Division lacked sufficient controls over its accounts receivable. Furthermore, some staff expressed confusion as to what debt functions were being performed by whom, because certain financial activities are centralized, while others are not.

Ledger and reporting controls can also be improved. The Division did not properly report accounts receivable on quarterly reports forwarded to the Controller's Office. As

of December 2010, the Division had approximately \$2.4 million in outstanding fees, about \$400,000 related to fiscal year 2011, and \$2 million related to years prior.

Auditors indicated receivables were not properly reported because the Division did not have sufficient controls over its accounts receivable processes. Furthermore, the Division's receivable functions are decentralized requiring each bureau to track and report its amount due. In addition, staff turnover and a lack of review impacted the accuracy and completeness of the amounts reported.

Uncollectible amounts should also be written off. The Division continues to carry debt that is significantly aged and uncollectible. As of December 2010, Division ledgers showed nearly \$2 million in debt dating back several fiscal years. The Bureau of Mining Regulation and Reclamation continues to carry amounts related to bankrupt and abandoned facilities, which have been due for over a decade, and are unlikely to be collected.

Ms. Goetze stated the 2003 audit report cited similar concerns with uncollectible amounts. In response, the Division developed policies and procedures regarding the write-off of uncollectible debt. Bureaus did not always follow Division policies regarding account write-off though. It is inefficient and ineffective to continue carrying debt no longer considered to be collectible. By allowing the Controller's Office to collect and process bad debt, staff time necessary to complete these functions can be redirected to other Division activities.

Five recommendations were made to enhance controls over accounts receivable.

Ms. Goetze indicated that renewed emphasis is needed regarding performance measures. While the Division has a strategic plan, its performance measures can be improved.

Outcome measures are preferred. Auditor analysis found 30 of 37 measures were non-outcome oriented and many simply counted the number of activities or the amount of work the Division was doing. The Legislature and the Department of Administration recommend agencies use outcome measures to help decide how well an agency is achieving its goals.

Ms. Goetze explained that outcome measures are the result of programs and activities compared to their intended purpose, such as determining the percentage of air pollutants reduced through regulatory measures. Even though non-outcome based measures can provide important information for Division managers, Legislators, and other stakeholders, outcome goals and measures should be used whenever possible.

Ms. Goetze reported selected measures were also undocumented. Auditors selected 7 of the Division's 37 reported measures from fiscal year 2010 to review for accuracy and reliability. The Division could not provide supporting documentation for any of the measures selected. Furthermore, the Division was unable to recalculate or recreate six of the seven measures tested.

Ms. Goetze stated written policies and procedures governing specific performance measures have not been developed even though Division policies require them to be developed. State Administrative Manual (SAM) and internal control procedures require state agencies to develop written procedures addressing how performance measures are computed.

Two recommendations were made to enhance controls over performance measures.

Ms. Goetze indicated that improvements can be made over permit renewals and fees. Permit renewals were delayed. Auditor review of Division files found 8 of 73 permits were issued after the expiration of prior permits. Although the Division has decreased the frequency of delays since the last audit, auditors still found notable delays between permit expiration and issuance, ranging from 1 year, 2 months to 7 years, 11 months. Auditors also reviewed several types of permit listings which indicated additional expired permits of both large and small facilities.

Ms. Goetze stated by not renewing some Water Pollution Control permits timely, the Division has already missed about \$23,000 in renewal fees. One permit on the Division's permit list has been expired for over a decade and did not pay almost \$11,000 in renewal fees.

Division management indicated staff shortages and other priorities led to permits not being renewed timely. Continued diligence by Division management will be necessary to maintain a reasonable period for permit renewals and will require the optimization of staffing resources, among other efficiencies.

Two recommendations were made to enhance controls over permit issuance and fee collection.

Ms. Goetze stated the Division accepted all nine recommendations.

Ms. Goetze offered to answer questions from the Committee.

Chair Leslie asked if audit staff were able to determine why the debt was not turned over to the Controller's Office for collection.

Ms. Goetze replied that even though the Division has a fiscal area most of the bureaus are reporting receivables themselves. Staff was unsure if they were supposed to do it or if the fiscal staff was supposed to do it.

Chair Leslie stated hopefully that can now be cleared up. She stated most of the debt is coming from the mining regulation and reclamation. As pointed out in the audit report, debt from a bankrupt mine will not be collected. Chair Leslie stated the audit of 2003 had pointed this out to the agency. She was interested in auditor findings in regard to the issue.

Ms. Goetze replied the agency was not sure about collecting the fees in the future since so many of them are bankrupt. The agency assumed they might be able to collect fees following bankruptcy proceeding.

Chair Leslie stated that was a long time to hold onto fees from 2003 to 2011.

Ms. Goetze said the Division had developed written policies and procedures after the audit in 2003. They were just not following them.

Assemblyman Grady asked for a point of clarification on page 9 which states that after 90 days the delinquent fees are brought to the attention of the administrator. He asked if that statement was in conflict with the 60 day term that the agency should be turning delinquent fees over to the Controller's Office.

Ms. Goetze replied that was correct. The Division had not updated the procedure.

Chair Leslie was interested in the agency defense of not being able to replicate daily data changes. She asked how the Division would provide support for reported numbers if looking at a specific point in time from an auditors perspective.

Ms. Goetze replied the agency should keep documentation by a screen print or a print of the query and keep the documentation as proof of the numbers.

Chair Leslie called for agency staff to testify.

Dr. Colleen Cripps, Administrator, Division of Environmental Protection, appreciated the audit staff work and agreed with the audit recommendations. She stated at this time all uncollectible debt had been referred to the Controller's Office. She stated from the Division's perspective the confusion was in how to deal with bankruptcies and also in cases where companies can dispute a claim. The Division would be working on this issue as well as centralizing their system. They will develop written procedures in regard to the above instances and will provide training to staff also.

Senator Rhoads asked if the Division had noticed a swing on mandates from the federal government to not make the permitting process so drawn out and complicated.

Dr. Cripps replied she was not sure that it was a mandate coming from the federal government but the Division had been working internally to try to streamline their permitting process. She added, there are ongoing activities and discussions with various federal entities on how they can streamline their processes as well.

Senator Rhoads asked if the Division had been somewhat successful.

Dr. Cripps replied yes.

Chair Leslie called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE REPORT ON THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, DIVISION OF ENVIRONMENTAL PROTECTION. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

5. Presentation of Review of Governmental and Private Facilities for Children, October 2011

Mr. Townsend stated this report was the result of a statutory requirement that the Audit Division perform these reviews. He introduced Jane Bailey, Audit Supervisor; Sandra McGuirk, Deputy Legislative Auditor; and Mike Herenick, Deputy Legislative Auditor.

Ms. Bailey began the report presentation. The report, as required by NRS 218G.570 through 585, includes the results of reviews of 6 children's facilities, unannounced site visits to 10 children's facilities, and surveys of 52 children's facilities. She explained the statutes require reviews of both governmental and private facilities for children. Auditors identified 19 governmental and 33 private facilities in Nevada, for a total of 52 facilities. Exhibit 1 shows the number of different types of facilities, their maximum capacity and average population, and the average staffing levels as of June 30, 2011.

Ms. Bailey stated 150 youths were placed in out-of-state facilities by a county or the State as of June 30, 2011. The youths were placed in 22 different facilities in 11 different states. Exhibit 2 shows the number of youths placed in out-of-state facilities by the different placing agencies. Exhibit 3 shows the number of youth placed out of state and the placing agencies during the past 2 ½ years.

Statutes require children's facilities to forward to the Legislative Auditor copies of complaints filed by children in their custody or on behalf of such a child. Auditors received 1,253 complaints from 23 facilities in Nevada for the year ended June 30, 2011. The other 29 facilities reported that no complaints were filed during the year.

Ms. Bailey stated the scope, purpose, and methodology are included in the report. Reviews were conducted pursuant to the provisions of NRS 218G. As reviews and not audits, they were not conducted in accordance with generally accepted government auditing standards. The purpose of the reviews was to determine if the facilities adequately protect the health, safety, and welfare of the children in the facilities and whether the facilities respect the civil and other rights of the children in their care. The reviews included an examination of policies, procedures, processes, and complaints. In addition, auditors discussed related issues and observed related processes during the visits.

Ms. Bailey stated Ms. Sandra McGuirk would continue the report presentation with a summary of the results of the reviews.

Ms. Sandra McGuirk, Deputy Legislative Auditor, stated during the course of the reviews, policies and procedures, youth files, and management information were examined. Auditors discussed related issues and observed related processes in place.

Based on the procedures performed and except as otherwise noted, the policies, procedures, and processes in place at five of the six facilities reviewed provide reasonable assurance that the facilities adequately protect the health, safety, and welfare of the youths at the facilities, and they respect the civil and other rights of the youths. In addition, during the 10 unannounced visits, auditors did not note anything

that caused them to question the health, safety, welfare, or protection of the rights of the children in the facilities.

Auditors concluded that the policies, procedures, and processes at one facility, Eagle Quest of Nevada, did not provide reasonable assurance that it adequately protects the health and safety of the youths in its care. Eagle Quest of Nevada is a foster care agency that recruits foster parents and places youths in the foster parents' homes or in homes provided by the agency. The agency had an average of 38 homes during fiscal year 2010. Auditors visited five of those homes.

Ms. McGuirk stated Eagle Quest of Nevada did not ensure foster parents maintained accurate documentation of medications prescribed or administered or that the homes were free of safety hazards or were in a safe, healthful condition. Auditors observed significant issues at one of Eagle Quest's higher level of care homes. As a result, auditors contacted Clark County's Department of Family Services, which began an investigation. The six foster children in the home were moved to other homes that evening. One youth's medication file contained three different medication logs for the same medication for the same month. Due to the lack of physician's prescriptions and orders, as well as transcription errors on the medication logs, auditors were unable to determine if the youth was overmedicated, undermedicated, or if the medication logs were completed in error.

Ms. McGuirk stated all six facilities reviewed need to develop or update policies and procedures. The types of policies and procedures that were missing, unclear, or outdated ranged from youths' computer use and access to social networking sites to facilities' inventory and control of keys. Policies and procedures are needed to help ensure management and staff understand the facilities' processes and provide consistent services to the youths.

Auditors found that all six facilities need to improve their medication administration processes and procedures. Reviews found missing evidence of physicians' orders at four of the six facilities, and missing medication administration logs at four of the six facilities. In addition, youths did not always receive medications timely at three of the six facilities.

Ms. McGuirk discussed the background check processes. Five of the six facilities need to improve their background check policies and processes. Two facilities did not obtain dispositions of cases against employees when the background checks showed arrests with no dispositions. In one instance, facility management requested the employee provide dispositions, but there was no evidence management received or reviewed the dispositions. As a result, the employee continued working at the facility with a felony conviction for possession and trafficking of a controlled substance for 2 years after the documentation of the arrest was received. Other problems found during the reviews included one facility used background checks based on social security numbers and names rather than fingerprints, and one facility did not fingerprint an employee until 16 months after the employee's hire date.

Ms. McGuirk reported that complaint or grievance forms were not available to youths at four facilities and there were no locked boxes for youths to submit complaints at four facilities.

Ms. McGuirk stated the report included information on the status of prior review recommendations. The December 2010 report recommended all facilities strengthen medication management training. Auditors surveyed 52 facilities in June 2011 and requested information on training provided to staff. Based on information provided by the 50 facilities that responded, 13 facilities' staff had participated in training between December 1, 2010, and June 30, 2011. An additional 7 provided plans to participate in training during the next 6 months.

In addition, the 2011 Legislature passed Senate Bill 246 to require children's facilities to adopt a policy concerning the administration and management of medications. The bill requires facilities to ensure employees who administer medications receive a copy of and understand the policy. The legislation is effective January 1, 2012.

Ms. McGuirk continued, the April 2010 report recommended the Legislature consider enacting legislation to strengthen employee background check requirements for all types of facilities that provide residential services to youths. Assembly Bill 536 passed during the 2011 Legislative Session. This bill requires fingerprint criminal history checks of employees and residents over the age of 18 for all types of facilities, and requires employees be supervised until the results of the background checks are received. In addition, it specifies the convictions that would require termination of employees and requires the facilities to maintain the results of the checks for the length of the employee's tenure. Finally, it requires fingerprint background checks of all employees be conducted at least every 5 years following the initial background check.

Ms. McGuirk explained Exhibit 4 includes a map of the six facilities reviewed. The report provides detail on issues noted at each facility, as well as each facility's response. For example, auditors discuss Eagle Quest of Nevada beginning with background information, followed by the purpose of the review, results in brief, observations, and the facility's response to each observation.

Ms. McGuirk noted that Appendix A contains a copy of Nevada Revised Statutes 218G.570 through 218G.585. Appendix B contains a glossary of terms commonly used within the report. Appendix C contains a summary of common observations noted at the facilities reviewed. Appendix D provides some background, population, and staffing information on 52 Nevada facilities. Appendix E contains a list of unannounced Nevada facility visits. Appendix F discusses the methodology used to carry out the requirements of the statutes.

Ms. McGuirk concluded the presentation. She offered to answer questions from the Committee.

Chair Leslie thanked Audit staff for the work put into this report. She noted this effort came out of the Civil Rights of Institutionalized Persons Act (CRIPA) investigation by the Department of Justice in Elko. She stated what really disturbed her was that the

Legislature had no warning that there were the kind of problems that the Department of Justice found in Elko. She stated this effort is really designed to be an early warning system. Auditors have proven that this works. She added this makes it worth being a legislator to see the results of some of the legislation.

Chair Leslie asked about the Eagle Quest situation. She commented on issues that auditors found across the board such as medication management which continues to be a problem at every single entity. And in addition, the policies and procedures, the fingerprinting, and the grievance issues should have been addressed by now. She asked for comments on why these issues continue to be widespread

Ms. McGuirk replied she thought there was a misconception that each individual facility was doing everything they could. However, she also thought that tools are provided to the facilities to show them the types of things auditors would be reviewing. This is noted in the methodology located within every report. She was not sure that the facilities were paying enough attention to the issues. Ms. McGuirk added information does not necessarily get filtered down from management to staff at every facility. As far as outreach goes all of the facilities, at least those listed in the current report, (52 Nevada facilities), should be very aware that auditors are completing this process because each of them is required to by law to submit copies of complaints every month. She added the facilities should be aware that at some point auditors will be out to visit them.

Chair Leslie agreed that the facilities should be aware of the processes.

Senator Rhoads asked if adequate training money was available to the facilities.

Ms. McGuirk replied that auditors were not in a position to answer the question. She suggested that DCFS staff and some of the facility management would be able to address the question.

Chair Leslie referred to the grievances. She noted that some facilities had no grievances. She asked how auditors would know that these facilities actually did not have any grievances.

Ms. McGuirk replied each facility is required to submit, on a monthly basis, copies of complaints or confirm to auditors in writing that there were no complaints. Audit staff, when out in the field, typically look for an internal process that the facilities should have to track the number and types of complaints that the youths are filing. Generally auditors can compare information received from each agency to what they have at the facilities. It is not just a paperwork issue, a log that the facilities maintain or should maintain is a tool facilities can utilize to identify a trend with a particular employee, a particular youth, or the types of things that the youths are complaining about.

Chair Leslie stated half of the facilities stated they have no complaints.

Ms. McGuirk replied that was correct.

Chair Leslie asked if every report included about half of the facilities that state they have no complaints.

Ms. McGuirk replied yes that was average across the board. She explained that a facility that does not report complaints is not indicative of what is going on at the facilities. Some of the facilities are short term so there is less likelihood that a youth might complain. Some facilities are definitely long term. And then there are various types of facilities such as corrections, detention, substance abuse, child welfare facilities, group homes, and residential centers. Also thrown into the mix is the age range in these facilities which range from 0 through 18. Some of the younger youths would not submit grievances.

Ms. Bailey stated some of the more treatment type facilities encourage the children to vocalize their complaints which the facilities attempt to address during therapy or on a one on one basis with the youths and their parents or counselors. Auditors find fewer written complaints from those types of facilities.

Chair Leslie stated this was the first time that Audit staff had walked into a situation where they felt they had to immediately report it to the licensing agency and children were removed from the facility. She asked if that was correct.

Ms. McGuirk replied that was correct. She commented that auditors had been working on this project for 4 years. Three and a half of those four years auditors had been going out to the facilities. To date, Audit staff had been to over 36 facilities and this was the first situation where auditors felt it was important to contact Child Protective Services (CPS).

Chair Leslie asked if this was an unannounced or announced visit.

Ms. McGuirk replied it was a little of both. She explained, the agency that they were reviewing was Eagle Quest. However, it would be Eagle Quest management's responsibility to advise the foster homes under their purview that auditors could come to their home for an inspection at any time. She stated in this case auditors went to the home to do an unannounced site visit under the purview of the review process. So it was not a separate unannounced site visit, it was encompassed into the review process because there were so many homes. She explained the majority of facilities have one to five buildings. In this case there were 38 foster homes and to get a representative sample auditors needed to see some of the homes, review how they operated, and review conditions that the children were living in.

Chair Leslie asked if this home was picked randomly.

Ms. McGuirk replied it was a judgmental sample. She explained Eagle Quest serves various populations. Three different types of populations are under a higher level of care which includes juvenile sex offenders, sibling groups, and higher level of care homes with no additional specifications of issues the children might have. Ms. McGuirk, in the process of selecting a judgmental sample, wanted to select at least one of each of the different types of homes to gain a better understanding of how the facility and the agency operates.

Chair Leslie stated when auditors went to the home neither the foster youths nor the foster parents were home at the time that auditors inspected the home. She asked how access to enter the home was obtained.

Ms. McGuirk replied they knocked on the door. At that time there were five individuals over the age of 18 and 2 minors in the home. The individuals over 18 were identified as a biological son, three adoptive youths, and one friend of the family. Auditors explained who they were and showed identification. The individuals were advised to call the corporate office of Eagle Quest if they had reservations about letting auditors in to inspect the home. Auditors were trying to show as much transparency as possible to the individuals who may not have been directly informed that auditors were coming to inspect the home.

Chair Leslie stated the occupants opened the door and let the auditors in. Chair Leslie explained for people listening on the internet, so they understand how serious this is, some of the issues that auditors observed were an empty insulin syringe without the needle on the floor of the home, an empty prescription medication bottle on the counter, unsecured flammable liquid, a hammer, sharp knives and cleaning supplies, pans full of grease on the kitchen stove, overflowing garbage cans both inside and outside the home, filthy bathroom sinks with standing dirty water used by foster youths, non-nutritious food throughout the home including food remnants in and on the carpet, empty snack food wrappers, soda cans littering the floor, and piles of clothes throughout the home. Chair Leslie asked what auditors did next.

Ms. McGuirk replied auditors observed the condition of the home and walked around to all of the living spaces that are occupied by the family as a whole and the foster children. They took pictures of the majority of the items that were just mentioned. Because there was no parent in the home it was very difficult to get a sense of what actually happened. Auditors, while on site, were able to talk to one of the foster parents on the phone. When they left the home CPS was contacted immediately. Auditors then completed the rest of their reviews in the Las Vegas area. By 3:00 pm that afternoon they met with management at the Eagle Quest corporate offices to explain the severity and the significance of the issues found. Ms. McGuirk encouraged them to go out to the home.

Chair Leslie asked for clarification that CPS came out and the youth were removed from the home.

Ms. McGuirk replied following the time that CPS was called, they had a licensing supervisor go to the home to investigate the matter. Ms. McGuirk reported then there appears to be confusion as to who was responsible for taking the kids out of the home.

Chair Leslie stated in the report Eagle Quest stated they had moved the kids voluntarily.

Ms. McGuirk replied that was correct. And the licensing agency also stated they had directed the foster agency to move the kids. However, all six foster kids were moved to other homes that evening.

Chair Leslie stated that was the important thing. She next asked about the unlicensed outdoor program. She stated years ago there was a huge concern in Nevada and other western states about unlicensed outdoor programs. Kids were being hurt and several deaths had occurred. Chair Leslie asked if auditors were aware that this agency was operating an outdoor program prior to visiting the site.

Ms. McGuirk replied auditors had some indication before they actually went out to the field and attempted to obtain information and an understanding of the outdoor program. Prior to auditors going out to the field she had called what she felt was the licensing agency to confirm whether they were aware of it or not. Then when they were out in the field auditors tried to obtain the address of the program and suggested that Eagle Quest work with the licensing agency to have it licensed.

Ms. McGuirk continued, auditors did not initially have a full understanding of the outdoor program.

Chair Leslie asked for additional information about the outdoor program. As stated in the report, the program was located north of Tonopah which clearly is not located in Clark County. She asked who would have been responsible for licensing. She thought that the license would come from where a program operates and not from where the corporate offices are located.

Ms. McGuirk replied that was correct. Because the outdoor program itself was in a rural part of Nevada, it should have been licensed by DCFS. She stated in this situation the agency is saying that the respite home, which is in a different location than the program, was licensed by DFS. However, the NRS states that the actual location of the operation of a program needs to be licensed by the appropriate licensing agency, which in this case was DCFS.

Chair Leslie thought the program was no longer functioning. She stated the question was moot, however, future outdoor programs should be licensed at the program location.

Ms. McGuirk replied that was correct.

Senator Kieckhefer stated the agency response indicates that this individual home in question deteriorated quickly after a medical condition left the primary care giver in the hospital for a number of days. He asked if there was anything in regulation that requires a notification or change of custody to take place if the caregiver is unable to care for the children.

Ms. McGuirk believed the issue would be addressed in statute but did not have that reference with her. She stated at very minimum this situation should have been covered by the corporate office. The foster home should have notified the corporate office but in this case the corporate office did not have procedures in place to ensure they received notification. Ms. McGuirk stated someone should be placed in the home to ensure that the children are taken care of.

Senator Kieckhefer stated there seemed to be a disconnect between regulatory requirement and oversight in the implementation of the regulations. The point is more specifically to the issues of their policies and procedures. Eagle Quest stated in their response letter that they worked with state and local regulatory agencies to develop policies and procedures and that the policies and procedures they have in place were approved and signed off by the regulatory authorities. However, the audit cites those same policies and procedures as insufficient. He asked which one was correct.

Ms. McGuirk replied the statement by the agency that their policies were signed off comes from DCFS and that was a process of providing the policies and procedures to DCFS. However, the project that auditors are working on, the review of all of the government and private facilities does not necessarily deal with some of the licensing issues. It deals with best practices that are out there for, and expected of, the majority of facilities.

Senator Kieckhefer rephrased, there is nothing in their policies and procedures that falls outside of regulations but regulations do not necessarily uphold the highest level of standards.

Ms. McGuirk replied that was correct.

Assemblywoman Carlton asked about WestCare and the medication issues. She referred to the staffing levels, the average length of stay, and the population. She noted problems with the medication administration processes still exist. She asked for auditor comment on the issue.

Ms. McGuirk replied that legislation passed in 2011 to strengthen medication management policies.

Chair Leslie interjected the original bill was to require the training and the bill ended up getting watered down because people complained that it would be too costly, so now they need to have a policy in place and acknowledge the need for it.

Chair Leslie was disgusted reading in this report about the continuing problems with the medication administration process. She asked auditors if it was a training issue or were the facilities not taking the issue seriously enough. She stated the basic implementation of tracking which medication goes to which kid and when is not difficult. She asked why the facilities are not in compliance.

Ms. McGuirk replied it is partially an element of training, partially an element of a lack of understanding, but primarily it is a lack of policies and procedures within the agency. Also, management must hold staff accountable for the accuracy of the medication administration and subsequent documentation.

Assemblywoman Carlton stated a good example of that is at WestCare, with an average of 14 staff, 12 full time, 2 part time, and a population on the month auditors conducted their visit was 4 youths. Yet there were still significant problems with the medication logs and orders. There is something in the system that is not working.

Chair Leslie stated this issue is in every single facility as reported in all of the previous reports. She stated this was very disturbing.

Chair Leslie stated another area that disturbed her were violations of mandatory reporting requirements. How is that happening that people do not know that they have to submit reports.

Ms. McGuirk replied she thought it was a lack of the information and the requirement that each and every person who works in the home is a mandatory reporter. She thought that information is not getting down to each of the employees combined with, in some cases, a lack of established process within the facilities.

Chair Leslie wondered if it is a failure as simple as that or was it the culture of the facilities attempting to handle the issues within themselves and ignoring the understanding or meaning of mandatory reporter.

Assemblyman Grady complimented audit staff on the excellent report in bringing the information forward. He stated this report shows that we in the State are very serious about dealing with these issues.

Chair Leslie called for agency/facility staff to testify and address the Committee.

Mr. Dave Doyle, explained he is the Director of Operations at Eagle Quest and is also a licensed foster parent. He understood the severity of the situation and accepted responsibility for the issue. He stated the agency was receptive toward the review process in the report. He informed the Committee about changes they had made at Eagle Quest. He stated their goal was to keep kids safe, adding as a foster parent he had a unique viewpoint.

He stated one of their homes was atrocious when auditors showed up for inspection. He stated this home was on a corrective action plan from the Department of Family Services (DFS) which Eagle Quest was not made privy to. He explained the homes are licensed by Clark County DFS and overseen by Eagle Quest. He stated the home was on a corrective action plan implemented by the Department of Family Services; however, the overseeing agency (Eagle Quest) was not made aware of the action taken. Eagle Quest has since developed standards of excellence which requires the foster parent to notify Eagle Quest in writing within 24 hours any time they are placed on a corrective plan of action.

Mr. Doyle explained in this instance, the foster parent had been transported to the emergency room. He stated, for the record he personally removed the children from the home. He spoke to licensing. They also went to the home. He stated many of the issues had been rectified. They had their cleaning person come over. It was regularly scheduled and not staged. They came over and cleaned up the house. The foster dad was simply overwhelmed with these six higher need kids while the foster mom was in the emergency room. He added the agency was not aware of the situation.

Mr. Doyle stated Eagle Quest has also made it a requirement in their standards of excellence that foster parents must notify Eagle Quest in writing if they will be out of the

house or if there is a medical emergency so the agency can ensure proper supervision of the children. Mr. Doyle stated the foster home was a good home. It was just a difficult time with some extenuating circumstances that were unfortunate.

Mr. Doyle concluded that Eagle Quest accepted responsibility and had made changes following the auditor review. He stated Eagle Quest had worked with a quality assurance committee with 12 team members. They have put grievance boxes in the homes. The children's bill of rights are posted. He stated this had been a very awakening process.

Mr. Doyle stated there were things that could be done to prevent this happening again. He stated there must be more awareness with these agencies. He suggested that the Committee meet with Nevada Youth Care Providers to explain the process. He stated directors of agencies want to do a good job and comply. There is a huge disconnect. He stated it is a situation where you are pleasing multiple masters such as Medicaid, best practice, state licensing requirements. He stated Eagle Quest was not cited on any direct licensing violations. He hoped to align LCB best practice with state foster regulatory regulation. He stated if those two coincided and were complimentary of one another he felt that the process would be less confusing for agencies and the kids would be safer.

Mr. Doyle also noted recently Eagle Quest had gone through DCFS planning and evaluation planning implementation of policy and procedure audit in September 2011. He stated Eagle Quest was amongst the best in the State.

Chair Leslie appreciated that Mr. Doyle came to the meeting and was taking responsibility for the issue. She looked forward to an improved quality of care for the youths. She stated it sounded like Mr. Doyle shared the goal of making sure that all the children are safe.

Assemblywoman Carlton asked about the medication issue. She asked if Mr. Doyle had suggestions or would be willing to work with staff to find out what could be done to resolve this medication issue.

Mr. Doyle replied their quality assurance committee had some solid resolutions. He stated one is the training. He stated Eagle Quest was willing to sponsor trainings and bring in a national expert. Eagle Quest would personally sponsor this training.

Mr. Doyle explained that Eagle Quest has taken a lot of the recommendations from the auditor review. They now have multiple people signing off on the medication logs and the foster parent and the client signs every day. They have a case manager supervisor sign twice a month; their clinical director also signs once a month overseeing the entire process; and the medical director reviews the logs as well.

Mr. Doyle explained if a medication is dropped on a table, a typical parent would give it to the child. From the LCB review they are encouraged to destroy the pill. Through training everyone is dedicated to fixing and improving the medication concerns.

Chair Leslie stated it was the Nevada Youth Care Providers that spoke against the bill in the 2011 Legislative Session. She wished they would be proactive recognizing that there is this problem. She agreed with Mr. Doyle that there needs to be standardized training, it needs to be state of the art, and everyone needs to get the training. She asked for a solution and not just saying it is too expensive, which is exactly what the Nevada Youth Care Providers did.

Chair Leslie stated, to see this problem continue and have the very group of people who most need it, reject it because of cost is hard to swallow.

Chair Leslie stated Mr. Doyle did bring up the issue of the Nevada Youth Care Providers maybe not understanding what the LCB standards are and what auditors are going to look for. She asked that auditors meet with Eagle Quest staff during a scheduled visit to Las Vegas to answer their questions so they know exactly what auditors are going to review.

Mr. Townsend replied auditors were willing to meet with any of the agencies to describe the process. He stated it is noted in the methodology in every report. Mr. Townsend stated auditors have taken on this task. He noted that auditors are not social workers. He stated the level of things auditors are looking at are quite reasonable. He gave examples that they ensure logs are properly filled out. If a medication is dropped on a filthy carpet he did not think that it is outrageous to require that the medication be destroyed. He stated a lot of what auditors were reviewing was common sense. The Audit Division is not a licensing agency, however, auditors have identified best practices.

Chair Leslie stated she would like to see a report that states that none of the agencies reviewed have medication management issues. That is her goal over the next year. She stated if legislation is not the way to get this accomplished, then find another way to get it done. She did not feel that the requests were asking too much of these agencies.

Chair Leslie stated this was undoubtedly an uncomfortable and humbling experience for Eagle Quest. But if in the end, if the facilities pay more attention to these issues and the kids are better protected, then it is worth witnessing this event.

Mr. Doyle thanked auditors for the review.

Chair Leslie called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE REPORT ON
THE REVIEW OF GOVERNMENTAL AND PRIVATE FACILITIES FOR
CHILDREN, OCTOBER 2011. THE MOTION WAS SECONDED BY
SENATOR RHOADS AND CARRIED UNANIMOUSLY.

6 Presentation of six month reports (NRS 218G.270)

Mr. Townsend explained the six month reports are a follow up process to the audits that helps ensure that the audit recommendations are implemented. He stated a report is

received from the Department of Administration. Auditors analyze the report and prepare the information provided to the Audit Subcommittee.

Mr. Townsend stated items A through K were either reports where all of the recommendations were implemented or they were very close and Audit staff did not have any questions for the agencies at this time.

Chair Leslie proposed that a motion be made to approve those items unless the Committee had questions for the agencies. She stated if any member of the Committee had a question on any of the reports they would be pulled out and reviewed.

Chair Leslie asked that agenda items 6A through K be read into the record.

Mr. Townsend stated agenda items 6 A through K were as follows:

- A. Public Utilities Commission**
- B. Alcoholic Beverage Awareness Program Fines**
- C. Department of Administration, Purchasing Division**
- D. Department of Transportation**
- E. Board of Parole Commissioners**
- F. Department of Conservation and Natural Resources, Information Technology Security**
- G. Department of Personnel, Statewide Payroll System**
- H. Office of the State Treasurer, Unclaimed Property Program**
- I. Department of Education, Programs for Innovation and the Prevention of Remediation (2010)**
- J. Department of Taxation, Insurance Premium Tax**
- K. Office of State Controller**

Chair Leslie called for a motion.

SENATOR KIECKHEFER MOVED TO ACCEPT THE SIX MONTH REPORTS ON ITEMS 6A THROUGH 6K. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED UNANIMOUSLY.

L. Secretary of State

Mr. Townsend introduced Doug Peterson, Information Systems Audit Supervisor, to present the report.

Mr. Peterson stated in December 2010, auditors issued an audit report on the Office of Secretary of State that contained 12 audit recommendations. In September 2011, the Office of Secretary of State reported on the status of the recommendations contained in the report. They indicated that eight recommendations were fully implemented and four

were partially implemented. Mr. Peterson stated the four partially implemented recommendations all revolved around performance measures. The Office indicated in their response that they were currently in the process of addressing those recommendations. Mr. Peterson stated auditors have questions for the Office of Secretary of State regarding the recommendations. Mr. Peterson would ask the Office when the partially implement recommendations would be fully implemented.

Ms. Kate Thomas, Deputy Secretary of State for Operations, replied the Office anticipated the recommendations would be fully implemented by November 1, 2011, or December 31, 2011, at the very latest. Ms. Thomas commented on the implementation process for the remaining recommendations.

Chair Leslie called for questions from the Committee.

Mr. Townsend asked that copies of the performance measures be provided to Audit staff upon completion by the Office of Secretary of State.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX MONTH
REPORT ON THE SECRETARY OF STATE. THE MOTION WAS
SECONDED BY ASSEMBLYWOMAN CARLTON AND CARRIED
UNANIMOUSLY.

M. Department of Business and Industry, Information Technology Security

Mr. Peterson stated in December 2010, auditors issued an audit report on the Department of Business and Industry, Information Technology Security, that contained eight audit recommendations. The six-month report prepared by the Department of Administration updated the status of the 11 audit recommendations contained in the report. The Department indicated that the eight recommendations were fully implemented and three were partially implemented. Mr. Peterson stated based on auditor review it was determined there were two remaining partially implemented recommendations. He stated the first one had to do with conducting background investigations on employees with the greatest access to sensitive information. The second recommendation dealt with disabling some unneeded services on their web servers. Mr. Peterson stated auditors have questions for agency staff.

Mr. Peterson asked when did the Department anticipate completing background checks on the remaining IT employees.

Mr. Grant Reynolds, IT Manager, replied there were six IT employees that fit in this category for background checks. He stated three have had background checks completed. The other three will have background checks completed by mid-November 2011.

Mr. Peterson asked if the second recommendation had been fully implemented.

Mr. Reynolds replied the recommendation was now fully implemented.

Chair Leslie asked that Mr. Reynolds provide documentation to Audit staff.

Mr. Reynolds replied that would be done.

Chair Leslie called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE SIX MONTH REPORT ON THE DEPARTMENT OF BUSINESS AND INDUSTRY, INFORMATION TECHNOLOGY SECURITY. THE MOTION WAS SECONDED BY ASSEMBLYMAN GRADY AND CARRIED UNANIMOUSLY.

N. Contracts with Consultants (AB 463)

Mr. Townsend introduced Rocky Cooper, Audit Supervisor, to present the report.

Mr. Cooper stated in December 2010, auditors issued an audit report on Contracts with Consultants (AB 463), that contained seven audit recommendations. The six-month report prepared by the Department of Administration updated the status of the seven audit recommendations contained in the report. As of September 2011, six recommendations were not yet fully implemented. Although six of seven recommendations were not fully implemented, the Department of Administration has made significant progress to address the issues outlined in the audit report. Mr. Cooper stated full implementation of the audit recommendations is anticipated upon approval of amendments to the State Administrative Manual (SAM) no later than October 2011.

Mr. Cooper asked if the Department was on target to fully implemented the recommendations by October 2011.

Mr. Jeff Mohlenkamp, Director, Department of Administration, replied yes. He stated the Board of Examiners approved changes to SAM at its October 2011 meeting. The Department anticipated providing an all agency memorandum to explain these changes.

Chair Leslie asked that the Department provide the changes to audit staff and to the Committee.

Mr. Mohlenkamp replied the information would be provided.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX MONTH REPORT ON CONTRACTS WITH CONSULTANTS (AB 463). THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

O. State Department of Agriculture

Mr. Cooper stated in September 2010, auditors issued an audit report on the Department of Agriculture that contained four audit recommendations. The six-month report prepared by the Department of Administration updated the status of the four audit recommendations contained in the report. As of June 2011, two recommendations were fully implemented and two recommendations were partially implemented. The anticipated date for implementing Recommendation 2 is 2013. Recommendation 2 is for the Department to use available funding to inspect and test fertilizer and antifreeze samples sold in Nevada. The Department collected about \$416,000 in fertilizer fees and \$26,000 in antifreeze registration fees during 2008 and 2009. He stated Department of Agriculture staff did not perform any of the required inspections. The audit report focused on the Department's alignment of program expenditures with a proper program and funding source. Therefore these fees were not aligned with any program expenditures. The Department of Administration indicated this recommendation was partially implemented. Due to staffing constraints the Department of Agriculture reported it is unable to sample 100% of antifreeze products as required by statute and intends to pursue a statutory change in 2013. Mr. Cooper asked if the Department is using available funds from fertilizer and antifreeze fees to perform inspections and testing of fertilizer and antifreeze. He also asked what was the statutory change the Department plans to pursue in 2013.

Mr. Jim Barbee, Director, Department of Agriculture, replied the Department is utilizing funds from those programs which are fund mapped to reflect that. He explained, to actually perform the tests, one of the issues the Department has is that the chemists put together the protocols and procedures which will be completed on the front side for the tests. They are inputting job codes for those specific positions so that they can track the actual time. He reiterated the funds were being utilized for those tests.

Mr. Barbee stated in terms of the question related to the statutory changes in 2013, the first would give the Department broader options in terms of penalties that can be applied to fines. Secondly, on the antifreeze portion, it identifies that as part of Department Measurement Standards Division, although it is currently in a plant division account. He stated the Department would be requesting to move that accounting piece to reflect what statutory currently reads.

Chair Leslie asked if that was a satisfactory response for Audit staff.

Mr. Cooper replied yes and he would like to consider Recommendation 2 as fully implemented to the extent possible. He stated the audit objective as required by the money committees was to look for any misalignment with revenue sources dedicated to specific programs. He stated if the Department is using available funding for fertilizer and antifreeze then they are accomplishing that alignment. Mr. Cooper stated auditors would conclude on this recommendation as fully implemented.

Chair Leslie requested that the Department provide the fund mapping documentation to audit staff.

Mr. Cooper stated Recommendation 3 was for the Department to track the costs of significant programs to ensure complete and accurate information is available for monitoring, reporting, and decision making. He stated the audit found that the Department did not adequately track the cost of its programs. Cost information is important for budgeting and setting industry fees at appropriate amounts. The Department of Administration reported that progress had been made in several areas and the Department plans to have sufficient information available for decision making by October 2011. Mr. Cooper asked if the Department was on target to fully implement the recommendation by October 2011.

Mr. Barbee replied yes, in some areas they have done that. He gave an example of their nursery program. He requested an extension to January 2012 to fully implement the recommendation in the areas of fertilizer and antifreeze fees. He commented on the process.

Mr. Cooper commented the Department is making progress in this area. He stated auditors would look forward to receiving documentation in January 2012.

Chair Leslie called for a motion.

ASSEMBLYMAN GRADY MOVED TO ACCEPT THE SIX MONTH REPORT ON THE STATE DEPARTMENT OF AGRICULTURE. THE MOTION WAS SECONDED BY SENATOR RHOADS AND CARRIED UNANIMOUSLY.

P. Department of Administration, Motor Pool Division

Mr. Cooper stated in September 2010, auditors issued an audit on the Motor Pool Division that contained 11 audit recommendations. The six-month report prepared by the Department of Administration updated the status of the 11 audit recommendations contained in the report. As of June 2011, six recommendations were fully implemented and five recommendations were partially implemented. Mr. Cooper stated in regard to Recommendations 1, 5, and 7, the Department of Administration indicated these recommendations were anticipated to be fully implemented by December 31, 2011. After auditors inquired about the status of the partially implemented recommendations, the Motor Pool Division indicated full implementation was scheduled for October 1, 2011. Mr. Cooper asked if the Motor Pool Division had met its target date of October 1, 2011, for full implementation of Recommendations 1, 5, and 7.

Mr. Keith Wells, Administrator, Motor Pool Division, replied that for Recommendations 1, 5 and 7, policies and procedures were developed, executed, and they are in the process of doing work with them at this time.

Chair Leslie asked if the answer was yes, that the Division had fully implemented the recommendations. She asked that auditors received documentation.

Mr. Wells replied yes.

Mr. Cooper continued with Recommendation 9 which was to request the Department of Transportation to provide odometer readings associated with each field transaction. He stated during the audit process NDOT's month billing statements provided detailed information about each fuel transaction except the vehicle's odometer reading. Fueling procedures require the driver to enter the odometer reading when obtaining fuel from NDOT facilities, however, this data was not provided to the Motor Pool Division. Mr. Cooper stated odometer readings can be helpful in preventing and detecting improper fuel card use. Several instances were noted in the audit report. Mr. Cooper stated according to the six-month report NDOT had created a report that has the odometer readings, however, the new report does not identify either the vehicle or the purchase card number used. In September 2011, the Motor Pool Division indicated they would continue to focus on creating a solution. Mr. Cooper asked If the Motor Pool Division could provide auditors with a written explanation from NDOT regarding why they are unable to prepare a report that includes odometer readings and identification of the vehicle or the purchase card used.

Mr. Wells replied Motor Pool had implemented NDOT's solution. He commented on the process. He stated NDOT could not produce a report which includes the information requested in the recommendation. He offered to provide documentation to the auditors.

Chair Leslie asked that the information be provided to audit staff and also copy the Office of the Governor and NDOT. She stated this was a relatively minor issue but one that needs to be addressed to track where the fuel is going.

Mr. Wells agreed there would be a solution.

Chair Leslie reiterated that the issue needed to be resolved.

Mr. Wells agreed.

Assemblyman Grady asked if it would be that difficult to change the word from miscellaneous to odometer reading.

Mr. Wells agreed, stating the system was not his and he did not have control over it. He stated that Motor Pool was attempting to work with NDOT to resolve the issue.

Assemblywoman Carlton asked how many fuel cards were out in the state at this time.

Mr. Wells replied in the Motor Pool Division there were 800. He added there could be many different drivers for every car.

Assemblywoman Carlton commented on the issue. She stated this was not like your card at home.

Mr. Wells. Replied you were not educating one driver.

Assemblywoman Carlton commented is you have one person that does not record it in the middle of the night on swing shift, then the next person who does, the odometer readings will not work because there was a fuel-up without a record.

Mr. Wells agreed.

Assemblywoman Carlton stated Motor Pool would have to figure out a way to reconcile that also.

Chair Leslie agreed, adding at the same time when the audit came out it is a big loop hole that somebody, if they wanted to steal, could steal from the State. Motor Pool must find a way to track it better.

Mr. Cooper continued. He stated Recommendation 11 was to periodically review internal controls over fleet management activities to ensure controls are followed, adequately documented, and working as intended. He stated according to the Motor Pool, policies and procedures were developed in April 2011. The policy required the task to be performed annually, preferably in the fall of each year to coincide with the Division's annual review of fleet operations. Mr. Cooper asked if the Motor Pool could provide auditors with a copy of the periodic review of internal controls over fleet management activities when it is completed in Fall 2011.

Mr. Wells replied the information would be provided to audit staff.

Chair Leslie called for a motion.

SENATOR RHOADS MOVED TO ACCEPT THE SIX MONTH REPORT
ON THE DEPARTMENT OF ADMINISTRATION, MOTOR POOL
DIVISION. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN
CARLTON AND CARRIED UNANIMOUSLY.

7. Update on Plan for Corrective Action (NRS 218G.250)

A. Office of Labor Commissioner

Mr. Townsend stated in April 2011 an audit report was issued on the Office of Labor Commissioner which contained some serious concerns over an outside bank account. It was determined that auditors should follow up on the plan of corrective action which was filed. The plan was filed but since that time there had been some personnel changes and also some changes in the way the plan is laid out. Audit staff had been working with the State Treasurer and the State Controller. He introduced Rick Neil, Audit Supervisor, to present the report.

Mr. Neil stated the audit contained 12 audit recommendations to improve the safeguarding of cash received from employers on behalf of claimants, to help ensure that wage and hour claims are resolved timely, and to improve the information available to supervisors that monitor claim investigations and to external parties. He stated in accordance with NRS the Office of Labor Commissioner filed a 60 day plan of corrective action on July 7, 2011. The plan indicated several recommendations had been fully implemented and others would be implemented soon. Mr. Neil stated Recommendation 2 was to utilize the state's accounting system to process and record the receipt and disbursement of monies for unpaid wage claims when checks cannot be directly passed to claimants. The Labor Commissioner indicated they were coordinating with personnel

from the State Treasurer's Office and the State Controller's Office and anticipated full implementation within 3 to 6 months. Nevertheless, the 60 day plan of corrective action indicated there were some concerns expressed by the State Treasurer's Office and the State Controller's Office. Consequently, auditors discussed the justification for this recommendation with personnel from these offices. Following these discussions, personnel from both offices indicated their willingness to assist the Office of Labor Commissioner with implementing this recommendation to utilize the state's accounting system, instead of utilizing the Office's outside bank account. Mr. Neil stated since the audit identified significant control weaknesses over the Office's outside bank account used to receive and disburse monies on behalf of claimants, auditors suggest the Audit Subcommittee obtain an update on the agency's progress in implementing this recommendation.

Mr. Terry Johnson, Director, Department of Business and Industry, stated that the Office of Labor Commissioner continues to make progress with regard to implementing the recommendations. Up to this point, staff has met with representatives from the Controller's Office and the Treasurer's Office. He stated the working relationship has been both productive and cooperative. Mr. Johnson noted the agency is continuing to draw down the amounts that are in the outside bank account as well as having transferred monies to the Treasurer's Office as part of the unclaimed property program in the amount of approximately \$139,000, so that those funds can be connected with their rightful owner. He anticipated closing the account in November 2011, as presented in the 60 day plan of corrective action. He offered to answer questions from the Committee.

Chair Leslie asked if questions were answered for the audit staff.

Mr. Neil replied yes it was good to hear the implementation is on track. He stated the Department of Administration would provide a six-month report on the status of the agency's implementation of the recommendations on or before January 9, 2012. Audit staff will continue to monitor the Office's plan of corrective action, the six-month report, and the agency's implementation of the 12 recommendations contained in the audit report.

Chair Leslie called for a motion.

ASSEMBLYWOMAN CARLTON MOVED TO ACCEPT THE UPDATE ON THE PLAN FOR CORRECTIVE ACTION ON THE OFFICE OF LABOR COMMISSIONER. THE MOTION WAS SECONDED BY SENATOR KIECKHEFER AND CARRIED UNANIMOUSLY.

Item 6—Public Comment

Chair Leslie called for public comment or additional public testimony.

Chair Leslie noted there were no further comments.

Chair Leslie stated the next meeting of the Audit Subcommittee was anticipated to be in January 2012.

The meeting was adjourned at 12:42 p.m.

Respectfully submitted,

Donna Wynott, Audit Secretary

Senator Sheila Leslie
Chair of the Audit Subcommittee
of the Legislative Commission

Paul V. Townsend, Legislative Auditor
and Secretary to the Audit Subcommittee
of the Legislative Commission